IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

LPA No. 278 of 2000
Date of decision 22.5.2009

Mahender Singh ... Appellant

Versus

Sailender Singh and others ... Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr.OP Goyal, Sr. Advocate with
Mr. Varun Sharma ,Advocate for the appellant

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether the judgement should be reported in the Digest ?

M.M.KUMAR, J.

This is an appeal filed under Clause X of the Letters Patent against the judgement dated 16.2.2009 passed by a learned Single Judge of this Court in CWP No.2301 of 2009. The matter pertains to the selection and appointment to the office of Lambardar (Headman). The learned Single Judge has upheld the order passed by the Financial Commissioner on 2.5.2008 and had restored the order of the Collector by reversing the order of the Commissioner, Rohtak Division, Rohtak. The basic reason which prevailed with the learned Single Judge is that the comparative merit of the candidates for appointment to the post of Lambardar are required to be examined by the Collector who is the officer at the grass root level. Accordingly he had examined and found respondent no.1 to be suitable.

We have heard the learned Senior counsel for the appellant at a considerable length and find that in the selection process for the office of Lambardar, the Collector is the authority who is required to see comparative merits of the candidates. Rule 15 of the Punjab Land Revenue Rules (for

brevity 'the Rules) provides various factors which are taken into consideration for appointment to the office of Lambardar.

Mr. O.P.Goyal, learned Senior counsel for the appellant has not been able to point out that any of the factors as per Rule 15 of the Rules have not been taken into account. Merely because the appellant has inhereditary claim would not alone be sufficient to claim appointment as Lambardar. Hereditary claim of an individual, like the appellant, is one of the factors and not the only one. The Rule provides a number of other factors. The rule is extracted which reads as under:

> " 15. Matters to be considered in first appointments.- In all first appointments of headman, regard shall be had among other matters to-
>
> (a)his hereditary claims;
>
> (b)the property in the estate possessed by the candidate to secure the recovery of land-revenue;
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> (c)services rendered to the State by himself or by his family;
>
> (d)his personal influence, character,ability and freedom from indebtedness;
>
> (e)the strength and importance of the community from which selection of a headmen is to be made;
>
> (f)services rendered by himself or by his family in the national movements to secure freedom of India"

A perusal of the Rule 15 of the Rules show various factors which influence the choice of the Collector to appoint a candidate as Lambardar (a) the extent of share of the property in the estate (b) services rendered to the State by the candidate or by his family (c) his personal

influence(d0 his character, ability and freedom from indebtedness (e) the strength and importance of the community from which selection of a headmen is to be made and the services rendered by himself or his family in the national movements to secure freedom of India. Accordingly, we find that all the aforesaid factors have been taken into consideration as is evident from the comparative table given in para 10 of the writ petition.

We are further of the view that if two views are possible, it would be unwarranted to replace the view taken by the Collector by the view taken by the appellant authority. Therefore, we are of the view that the order of the Financial Commissioner as upheld by the learned Single Judge restoring the order of the Collector and appointing respondent no.1. Sailender Singh to the office of Lambardar does not suffer from any legal infirmity. Accordingly, the appeal fails and the same is dismissed.

(M.M.Kumar)
Judge

(Augustine George Masih)
Judge

22.5.2009
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